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SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

VERBATIM REPORT

FIFTH MEETING OF THE TARIFF AGREEMENT COMMITTEE
HELD ON WEDNESDAY, 27 AUGUST 1947, AT 2.30 P.M.
IN THE PALAIS DES NATIONS, GENEVA.

Hon. L. D. WILGESS (Chairman) (Canada).

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CHAIRMAN: The meeting is called to order.

We are all together to-day to do more discussion on the Report of the Tariff Negotiations Working Party, and the General Agreement on Tariffs and Trade. The majority of Members have come back fresh and rested from Czechoslovakia, and we must proceed with the expedition of the work that is before us because members of the Committee will recall that the Secretariat has sent other notes to delegations informing them that "due to the requirements of the General Assembly of the United Nations all the interpreters in Geneva will be withdrawn by September 14th." That we may regard as our deadline for completing the work of this Tariff Agreement Committee. Therefore I would like this Committee to try to complete their work for the 14th September.

We will resume our discussion based on the Working Paper W.301 prepared by the Secretariat. At our last meeting we finished point (a) of No.2: Significance of signature of the Agreement at Geneva. We have not yet dealt with point (b) "The Syro-Lebanese delegation has pointed out its understanding that signature of the Agreement will not constitute an obstacle to the freedom of discussion of the Charter at the World Conference on the part of the two countries which it represents." The Secretariat then pointed out that it will be useful for the Committee to reach an understanding in this connection. I therefore suggest that the first part of our meeting be devoted to this particular subject, after which we shall pass on to No.3 - Tentative Timetable of developments.

Would the Lebanese delegate like to open the discussion on this subject?

M. MOUSSA MOBRAK (Lebanon) (Interpretation): Mr. Chairman, I have nothing to add to the reservation which I have already stated in the document that I handed to the Secretariat. As you know,

both our Governments said that they could not sign the Agreement unless certain formal reservations were made, and Syria joined Lebanon only on the question of Tariff negotiation. On the other hand, both our countries are linked with the Arab League on the question of economic development, and it will be very difficult for us to take any undertaking here towards a text which could be modified later on in Havana. Therefore, if we intend to have this Agreement signed here in Geneva we should like the interpretation which we gave in this document to be kept. That is to say, that we want to be free to reconsider these different articles as well as the articles on which we made formal reservation, and the other Articles in Havana.

CHAIRMAN: Does any other delegate wish to speak on this subject?

Mr. R. J. SHACKLE (United Kingdom): Mr. Chairman, my impression is that there is no obligation at all on a delegation as to the line it will take in Havana, as Mr. Harold Wilson said in a speech at the Plenaries that we should most definitely hope that the delegations which have taken part in the preparation of this Draft Charter will defend the basis of the text which has been reached. We certainly hope that that would happen, but I do not think that there is any notion of obligation on delegations to take a particular line. That is my point of view, but it is only a personal one.

CHAIRMAN: Are there any other delegates who wish to speak?

Dr. H. G. COOMBS (Australia): Mr. Chairman, I believe the problem does not arise if the General Agreement takes a certain form.

Mr. I. MELANDER (Norway): I agree with that, Mr. Chairman.

CHAIRMAN: I think we can interpret what little has been said on this subject that the Committee are in general agreement with the interpretation just given by the United Kingdom delegate which conforms with the understanding of the Syrian-Lebanese delegate that the signature of the agreement does not prejudice the stand which the other delegates wish to take at the Havana Conference.

CHAIRMAN: The Delegate of the Lebanon.

M. Moussa MOBARAK (Lebanon) (Interpretation): Mr. Chairman, this, of course, is quite evident, and nothing should prevent the Delegations, after they have signed at Geneva, from adopting a different attitude and discussing the questions at Havana. However, the question here is whether, if alterations are introduced in the Charter at Havana in essential Articles, whether the Agreement on Tariffs will be changed accordingly. Therefore, there are two aspects of the question: first, the discussions at Havana, and second, the changes which will be made later on.

CHAIRMAN: The second aspect of this question will, of course, be dealt with when we come to item 6 on our Agenda.

We now pass on to item 3 - Tentative Timetable of developments. We dealt fairly fully with this when we were discussing the question of the significance of signature of the Agreement at Geneva; but it might be useful to have a discussion as to the dates set forth in the tentative timetable. It also gives an opportunity to consider the point which was raised by the Belgian Delegate at our last meeting, which was, would it be possible or not for Parliaments to discuss the General Agreement before the date of simultaneous public announcement? I should think that the answer to that would be that it would not be possible for Parliaments to discuss the General Agreement until the date of simultaneous public announcement, as otherwise there would be danger of other countries getting to know about the Agreement, and in order to safeguard the security of the document, no discussion could take place until after the date of simultaneous public announcement.

The Delegate of the United Kingdom.

Mr. R.J. SHACKLE (United Kingdom): I do not know whether it would help at all with this problem, but so far as the United Kingdom Government is concerned, we are doubtful whether we could live up to the date of 15th December for provisional application.

We could be reasonably sure of 1st January, if the earlier part of the time-table is adhered to; but we cannot very well pledge ourselves to an earlier date than 1st January 1948. It may possibly give a little more time for Parliaments to consider the text if 1st January should be adopted as a general date. That is the only comment that occurs to me.

CHAIRMAN: The Delegate of the United States.

Mr. J.M. LEDDY (United States): January 1st, for the provisional entry into force, would, I think, be acceptable to us, Mr. Chairman. We do think, however, that it is important to adhere to the publication date of November 15th, that is, before the World Conference opens, if it is at all possible to do so.

CHAIRMAN: The Delegate of Australia.

Dr. H.C. COOMBS (Australia): Mr. Chairman, when we discussed the first part of this paper at our last meeting, I think it was agreed that there should be after the authentication of a text here in Geneva on approximately 30th September, a period of about six weeks during which the Agreement would be open for signature at least by certain countries - key countries, I think they were referred to - giving a date by which those countries could be expected to have signed the Agreement of November 15th, which approximates to the date set out here for simultaneous public announcement.

I see no difficulty in simultaneous public announcement on or

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about the last date for signature by the key countries; but it has occurred to me that that might possibly be inconvenient for some countries, and I think it would be as well, therefore, if we were to test the position of the various Delegations here as to whether they would require a period between the final date for signature and public announcement.

For instance, countries may be unwilling for the text of the Agreement and its content to be announced unless there are a certain specified number of countries participating, or unless particular countries of interest to them have in fact signed. There may, therefore, be a necessity for a short period after the final date for signature before the text of the Agreement is published, to enable countries to confirm their signature in the sense that the assumptions on which they made it have, in fact, been fulfilled. Clearly, if there is one key Agreement for one key participating country or for one of the countries which has signed, they may well want to know that the other party to that particular negotiation has, in fact, signed also before they agree.

As I say, so far as we are concerned, I think the simultaneous public announcement immediately following the final date of signature would be acceptable to us, but I do think it is a question which should be examined.

Mr. D.Y. DAO (China): Mr. Chairman, we have nothing to add to what we said last time concerning the provisional application of the Agreement; but there are two points which we would like to have clarified in connection with the publication of the text of the General Agreement and provisional application.

It is presumed that when the text of the General Agreement is published, the Tariff Schedules will also be published, which form part of the Tariff Agreement. It is quite in order for

those countries to publish the Tariff Schedules which they will apply provisionally say, on November 15th, but supposing a country finds that it is impossible to apply the Tariff Schedules on that date, is it correct to assume that the particular Tariff Schedule of that country will be withheld from publication, because if it is published alongside with other Tariff Schedules it would cause dislocation of the trade of that particular country by premature publication of the tariff concessions which they contemplate. Furthermore, I think it would be contrary to the usual constitutional procedure for Tariff Schedules to be published before being considered by their legislature. That is one of the points which we would like clarified.

The second point is that those Tariff Schedules which are applied provisionally will, it is understood, also be applied to countries which have commercial relations with countries ~~provisionally applying~~ these Tariff Schedules through the operation of the Most-Favoured-Nation clause.

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CHAIRMAN: I think I can reply to one of the questions raised by the Delegate of China by saying that it has been envisaged that simultaneous publication of the full text of the General Agreement (you will notice that the word "full" is underlined on page 6) means the General Agreement with all the Tariff Schedules.

However, my understanding is that it is customary, in the case of trade agreements, for them to be published before they are submitted to parliaments' approval. Often, it is the practice to publish them very soon after signature, and that of course does give rise to the personal effect this might have on trade, but as these are mostly tariff reductions, the effect it would have on trade would probably be to slow up imports, which largely depend on the state of the various markets. But if there were sufficient goods it is probably that the importers would wait for the date of the entry into force of the General Agreement to proceed with their importing. On the other hand, if the market were short of goods importing would presumably continue/a few weeks prior to the coming into force of lower rates.

MR. D.Y. DAO (China): Thank you very much for your explanation, but we find that difficulties still remain for those countries who cannot apply the Tariff Schedules provisionally which they agreed to at Geneva, so we would like to give further thought to the particular problem of the publication of the Tariff Schedules.

CHAIRMAN: The Delegate of Czechoslovakia.

H.E. Dr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, if I understand correctly, the procedure should be the following: On the 30th September there would be the signature by the Delegates, not yet involving the Governments, because the Governments would have to

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approve or disapprove it; the simultaneous public announcement would be on the 15th November, but I am rather wondering what "public announcement" means. Is it in the newspapers as a kind of advertisement, or does it mean in connection with official papers in the collection of laws? In our constitutional practice, I do not see what kind of public announcement we can make of an Agreement without saying at the same time when this Agreement will enter into force. Now, suppose that we make this announcement and say it will enter into force one day, but I do not know when, then of course the importers will be looking at the reductions of tariffs and they will stop importing, and then later we will see that only certain countries will adhere to this Agreement and we will have to revise the list of our concessions and withdraw certain concessions, and meanwhile the whole of our trade would be stopped. Therefore, that is why we do not see the necessity for a public announcement before we are sure which countries are willing and able to put into force the concessions.

CHAIRMAN: The Delegate of Australia.

DR. H.C. COOMBS (Australia): Mr. Chairman, I think that the Czechoslovak Delegate has emphasised a point which I made earlier, that is, that countries may not wish to have published the full text of the Agreement until they know what countries have, in fact, accepted it and what Governments have, in fact, undertaken to give provisional effect to the Agreement. That may mean the necessity for a period between the final date for signature and the date for the simultaneous announcement.

On the question of the nature of the simultaneous announcement, it would be necessary, so far as we are concerned, for that

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announcement to be made to our Parliament, and we would suppose that, in agreeing to the simultaneous announcement, we would be agreeing to other Governments making the results of this Agreement public at the same time as we make them public in Australia by presenting the Agreement to Parliament. Whether any arrangements will be made also for publication by the United Nations is a separate point and does not seem to effect the issue, but certainly, so far as we are concerned, we would think it necessary that we should publish the results of the Agreement by presenting them to our Parliament on the same day as they were going to be published anywhere else, wherever it may be.

The other point that I think is of some relevance is the question of whether all the Schedules will be published, or only those Schedules affecting the countries which have already signed the Agreement, that is, the concessions which have been exchanged between them.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J.SHACKLE (United Kingdom): Mr. Chairman, as far as the United Kingdom practice is concerned, I do not think that the points made by Dr. Augenthaler would cause us any difficulty. It is our regular normal practice to publish Trade Agreements and Treaties before they are ratified. That is, in fact, inevitable, because they have to be presented to Parliament and naturally presentation to Parliament means publication. A Trade Agreement is published as a White Paper and has printed on the front of it "This Agreement has not yet been ratified by His Majesty". That I presume is the technique we could follow in this case.

As to the risk that the publication of these Agreements before they are put into force might cause some slowing up of trade, I think that you, Sir, have already dealt very effectively with that point. I do not think there is any more to say about it, and I should not think that the result would be serious.

As to Governments getting to know which other Governments have signed, I presume that the Secretariat would at once telegraph to all the Governments of countries here represented each signature as it was made, so that all of the countries here represented would know from day to day what the position was as regards signature. If that procedure were followed I should think there would be no need for any long interval between signature and publication. I quite appreciate that there might be some interval, but I should not think it need be a long one. Thank you.

CHAIRMAN: The Delegate of Norway.

Mr. J. MELANDER (Norway): Mr. Chairman, we have had some of the same doubts as the Delegates for Czechoslovakia and China have expressed and I may mention that in our case the normal procedure is that although the draft texts of Trade Agreements and Payment Agreements are published before they are laid before Parliament, with regard to Tariffs the position is the opposite. Those are not published until they have been accepted by Parliament in Secret Session.

In this case here, however, we have come to the conclusion that to make any objection to the proposal made in the Draft General Agreement would lead to a series of difficulties.

First of all, it would mean that one would have to revise the Schedules of those countries which not only signed the Final Act but which also signed and put into force provisionally the Agreement. That would really mean that we should take up again for revision all the Tariff Negotiations we have had here in Geneva. That is one main objection we have against the idea.

Secondly, the objection that there might be some inconvenience to trade we do not consider to be very serious, in fact that would really be met if the countries concerned, by so to say unilateral action, reduced the tariffs accordingly without any obligation. But in any case we have come to the conclusion that although this would certainly be contrary to our normal procedure, we think the proposal here is the only reasonable one and if one wants to have a General Tariff Agreement one must accept it.

CHAIRMAN: The Delegate of the Lebanon

Mr. MOUSSA MOBARAK (Lebanon) (Interpretation): Mr. Chairman, I think the question has a double aspect: first the General Agreement with the Tariffs, and second, the Tariffs themselves.

I do not know the possibilities of other countries represented here, but so far as my country is concerned, I have already notified the Secretariat that we will do our best to enforce the Tariffs provisionally as soon as possible, but the General Agreement must be submitted to the vote in Parliament and therefore we cannot possibly contemplate its publication before March or April next.

I therefore would like to know whether we are discussing at present the General Agreement with the Tariffs, or the Tariffs alone. If the latter is the case, the 15th November would suit us; but if the General Agreement is meant here, then, as I said before, we cannot do anything before March or April next.

CHAIRMAN: In reply to the Delegate of the Lebanon, I would state that we are considering here this tentative timetable and what has recently been the subject of most discussion is Item 2: "Simultaneous public announcement of the full Text of the General Agreement." That of course means the General Provisions of the Agreement and the Tariff Schedules.

The Delegate of Belgium.

M. PIERRE FORTHOMME (Belgium): Mr. Chairman, it seems to me that up till the speech by the Delegate of Lebanon all objections to publication were on the basis of the Tariff Schedules and not of the General Agreement and I think

it would clarify the discussion here if we first of all discovered if any Delegations would have any objection to the publication of the text of the General Agreement apart from the Tariff Schedules before it would be laid before the Parliaments.

I personally do not think there would be any objection to these terms being known.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J.SHACKLE (United Kingdom): Mr. Chairman, naturally, of course, the practice in the United Kingdom is no guide to what happens elsewhere, but, so far as the United Kingdom is concerned, there is no difficulty about laying an Agreement before Parliament even if Parliament is not sitting, because the Agreement is laid on the table of the House and is published, and that counts as laying it before Parliament. No doubt it is in a sense a legal fiction, but it is legal, and is what we do. I daresay other countries may have a similar procedure.

CHAIRMAN: The Delegate of the United States.

Mr. J.M.LEDDY (United States): We have negotiated Trade Agreements with, I think, some thirty countries, all of which contain both Tariff Schedules and General Provisions. I believe there is no single case in which the Agreements were not published anywhere from two weeks to six months before their entry into force, and in almost all cases it was not known at the time of publication as to the time they would enter into force. I cannot help but believe that it has been a very common practice in Commercial and Tariff Agreements to publish them before they enter into force and before it is known when they will enter into force.

Dr. J. E. HOLLOWAY (South Africa): It seems to me that there are three questions there and we need not preoccupy ourselves with the first. It is the publication of the General Agreement which has already been published, and therefore we need think no more about it.

Secondly, it does not seem to me to be possible to publish the Agreement in fragments because it seems to me that the process of fragmentation would be so difficult that it is really not worth doing.

Thirdly, it does not seem possible to me to lay it before all the Parliaments at the same time because they just do not meet at the same time.

As far as publication in advance is concerned, our position is exactly the same as that of the United States of America. We have frequently published changes in tariffs which mean increases in tariffs quite a long time before these increases have come in.

There is an advantage in that because it does give your traders some time to off-load without being caught with heavy stocks which they cannot pass on.

M. HASSAN JABBARA (Syria) (Interpretation): Mr. Chairman, the usual trade agreements do not provide for provisions as essential as the ones we are dealing with here. Usually they deal only with commercial and customs treatments, and usually, too, they are made known a short time before their final ratification because their ratification can always be taken for granted. Now, the General Agreement we are dealing with here includes both tariffs and legal provisions which have to be submitted to Parliament. If this General Agreement were a simple trade agreement it would not be necessary as far as our country is concerned to submit it to the approval of our Parliament. It could be published and implemented at once. If it were possible, as my Lebanese colleague has suggested,

to provide for two different procedures, and provide one special procedure for tariffs, namely, their publication and effective enforcement at once, and as far as the text of the General Agreement is concerned, to deposit it before Parliament. I think all countries concerned would be in a position to adjust themselves and accept this procedure.

M. ANGEL FAIVOVICH (Chile) (Interpretation): The Chilean Parliament will have to approve the General Agreement. Therefore the Chilean delegation is unable to make any undertaking at this stage. The only part of the Agreement that could be put into force without Parliamentary approval is the Tariffs.

M. PIERRE FORTHOMME (Belgium): Mr. Chairman, I still think it would be an advantage if we could split this discussion into two and find out first whether there is any objection to the text of the General Agreement, apart from the Tariff Schedules, should be known at any given date - whether shortly before the Parliament in question has examined the text, or a long time before. I think, personally, that there would be no objection to that. Reasons of secrecy ^{which} were advanced were all applicable to the tariff concessions and not to the general terms of this Agreement which, as Dr. Holloway pointed out, would be very similar to the published text of the Draft Charter. If we find that none of the delegations here have any objections to the text being known, one, two, three or six months before Parliament examined it, then we could drop consideration of that part and consider the problems on tariff concessions which I think present more difficulty.

M. MOUSSA MOBARRAK (Lebanon): (Interpretation): Mr. Chairman, personally we would have absolutely no objection to accepting the proposal of the Belgian delegate. But I think this would raise one difficulty, namely, some Parliaments may refuse to vote on the

General Agreement before knowing what happened to the Draft Charter at Havana. Therefore, while many governments would find it possible to enforce the new tariffs at once, there might be some delay in the vote on the General Agreement.

M. PIERRE FORTHOMME (Belgium): Mr. Chairman, it seems to me then that if we have an agreement that in itself has no difficulty in the publication of the terms of the agreement, there remains the question of the tariff concessions, and there I see the problem divide itself as follows: Certain countries could apply the tariff concession by an executive act prior to any kind of approval by the Parliaments subject to subsequent approval. Some countries would have to get Parliamentary approval because Parliamentary approval could be, for the purpose of provisional application of the tariff concessions, divorced from approval of the text of the General Agreement, the approval being a definitive act on the part of the Parliament, and there may be some countries which cannot obtain permission to apply the tariff concessions even provisionally without a definitive vote of their Parliaments on the whole of the agreement. In the case of the Lebanese delegation, they would be able to apply the tariffs provisionally and reserve the definite approval of the Agreement until such time as the result of the Havana Conference would be known from the Charter point of view. Our own Government would be in the same position. I think it might be interesting to see if there are any delegations here confronted with the difficulty, that not even provisional application with Parliamentary sanction would be possible without approval of the General Agreement in a definite form.

Mr. J.M. LEDDY (United States): I think we should recall that the provisional application of the general provisions requires merely that effect be given to those provisions to the extent not inconsistent with the existing legislation. In other words, changes in existing legislation would not be required, and I wonder therefore whether the difficulties indicated by the delegate of Lebanon would not be met by that provision.

M. MOUSSA MOBARAK (Lebanon) (Interpretation): Mr. Chairman, I am afraid I have to say no because this General Agreement is a text on which we have to take a legal decision as it is a novelty. If it were a simple commercial agreement, as my colleague from Syria pointed out, we could ratify it without any delay, but the laws in force at present do not enable us to do so. This would have to be voted, and as I said previously, this procedure cannot take place in our country until March or April.

H.E. AUGENTHALER (Czechoslovakia): Mr. Chairman, I think it may be useful to the delegations present here if I explain our position. It would be the following. We are able and willing to put the provisions in force in tariff reductions, and we may do that on short notice, so there would be no reason for not putting those reductions into force before the 15th November. Now, in our country, there is a practice that reductions of tariffs are not published before they enter into force. It means that if some date is fixed we would be obliged to know at the moment of publication which countries are willing to put those reductions into force on the same date, and, as you know, there is a general custom that one cannot publish reductions in a certain country if this respective country does not agree because it is impossible to publish something in one country and keep it restricted in another country.

Now, as to the Tariff Agreement in general, it would be necessary in Czechoslovakia to present it to the Parliament. I am afraid that we are in the same position as the delegations of Lebanon and Belgium, that is, that I doubt if our Parliament would be willing to take any decision on these general provisions before we know what the contents of the Charter are in general. We do not know the publication date, as Mr. Shackle has mentioned, though we may have some publication of the Tariff Agreement, but it would be rather a kind of private publication, not an official one, I suppose, for the information of the public. It may be published as something existing but which has no legal value at all.

Now, Mr. Leddy mentioned that only those provisions of the Tariff Agreement which are not conflicting with the legislation of the respective countries would enter into force. I would ask Mr. Leddy to explain to me what actually the United States understands by those internal legislations. Does it mean laws or does it mean administrative measures taken as a consequence of these laws, and in execution of these laws? It can also mean administrative practices.

Mr. J.M. LEDDY (United States): I think the intent is that it should be what the executive authority can do - in other words, the Administration would be required to give effect to the general provisions to the extent that it could do so without either (1) changing existing legislation or (2) violating existing legislation. If a particular administrative regulation is necessary to carry out the law, I should think that that regulation would, of course, have to stand; but to the extent that the Administration had authority within the framework of existing laws to carry out these provisions, it would be required to do so.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, I observe that the date set down in this provisional time-table for the date of entry into force of the General Agreement is April/June. Surely that will leave time for all the countries concerned to see what has come out of the Havana Conference? The Charter will not be actually in force at that time, but at any rate everyone will see what is in the Charter. Will that not help as regards a good many of the doubts and difficulties that have been voiced here?

As regards our own practice, again it seems to me that we should have no difficulty regarding the definitive enforcement; we should have passed our legislation enabling us to make the necessary duty changes. As far as the acceptance of the General Agreement is concerned, that for us is an act of the Executive - it binds only His Majesty and His Majesty's Government. It is only where duty changes are concerned that there might be any need to go to Parliament. We can actually enforce those provisions, as I have said before, from 1st January.

It seems to me that, assuming that the necessary legislation has been passed to enable duty changes to be enforced, when the moment of ratification arrives and all the necessary acceptances are in, surely it will be possible for every country, by some kind of administrative order, to bring into effect the tariff changes for which it already has got the consent of its Parliament. I should have thought that by some variation on that procedure everybody could manage to enforce the Agreement and the Schedules definitively by the stated date of April or June next.

CHAIRMAN: The Delegate of Australia.

Dr. H.C. COOMBS (Australia): Mr. Chairman, it seems to me that some of the difficulties which Delegates have outlined are overcome by the device which the Tariff Steering Committee itself suggested, that is, that the Agreement should come into force provisionally on 15th December or 1st January, as the case may be, provided that what they called "key" countries had agreed to implement it provisionally. I am not quite sure what countries they had in mind as key countries, or how many there would have to be to make it worthwhile for other countries to come in; but if it were clear as a result of our discussions here in Geneva that there were sufficient countries who would be in a position by 15th November to indicate whether or not they would put the Agreement into force provisionally on 15th December, for it to be worthwhile bringing it into force provisionally on that date, then the remaining countries who, for constitutional or other reasons, are unable to bring it into force provisionally by that date, would not ^{be} called upon to do so: they could wait and come in in accordance with their constitutional practice at any time - presumably before the General Agreement comes into force finally or authoritatively in June of next year.

If my understanding is correct, the Schedule - that is, the programme set out in the first part of it, at any rate - would appear as follows. Item 1 would be the final act of Geneva, authenticating the text on 30th September. Item 2 would be the final date for signature by key countries of the General Agreement, which would be November 15th, and then I feel that it would be necessary, in order to permit those countries which had signed to assure themselves that the necessary number of other countries had also signed, to leave a short period between November 15th and the date of simultaneous public announcement - perhaps a week would be sufficient. We might put November 22nd for the simultaneous public announcement, or if a date before the World Conference is wanted, perhaps both dates could be moved back a little, making one November 10th and the next November 17th. Then the fifth item would be entry into force of the General Agreement through the provisional application by key countries on January 1st (if the United Kingdom Delegate's suggestion is agreed to).

If that were done, the problems of the countries who would have difficulty (provided they do not happen to be one of the key countries) can be met merely by their waiting until they are in a position to apply the Agreement provisionally, and their doing it at any time between November 15th and the date of its coming into force definitively.

If I may refer to a point raised by the Belgian Delegate, in which he asked whether any Delegates would feel difficulty about the prior publication of the text of the General Agreement as distinct from the Schedule which it would contain; so far as we are concerned, we see no difficulty in principle to such prior publication of what would, in effect, merely be a text, except that

it would obviously be undesirable that that text should include the names of countries, because the inclusion of such names would imply an anticipation of a decision by their Governments which had perhaps not yet been taken. Also, since some of the proposed Articles do concern individual countries and groups of countries, if those Articles are to remain in the General Agreement there might be difficulty about their publication, since they would refer specifically to individual countries and might, therefore, be taken to imply a decision by those countries to participate in advance of a specific decision by their Governments.

My feeling, therefore, is that while there is no objection in principle to the publication of such a text, it would be necessary to exclude any reference to individual countries or Governments, and that consequently, unless there is something definitely to be gained by prior publication, it would appear to be easier and simpler to publish the whole of the General Agreement, any general Articles it may contain, and the actual Schedules, on the same date.

CHAIRMAN: Dr. Coombs has just set out a revision of our tentative time-table which seems to the Chair to embody most of the points on which there was general agreement during our discussion at the last meeting and at this meeting. I would, therefore, like to know if any of the other Delegates have any objections to any of the points which have just been set forth in the revised time-table which Dr. Coombs has so clearly set out.

M. Pierre BARADUC (France) (Interpretation): May I ask for a repetition of what was exactly proposed by Dr. Coombs?

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CHAIRMAN: As I have understood Dr. Coombs, his outline of the programme was substantially as follows: On or about the 30th September, there would be the Final Act establishing the authenticity of the text of the Agreement; the second item on the tentative time-table would be the last date for signature of the Agreement by so-called key countries - that would probably be November 10th - 14th; there would then be a simultaneous public announcement six or seven days later; there would then be the provisional application of the Agreement by key countries on January 1st. In other respects, the time-table would be the same as is set out in our paper.

The Delegate for India.

MR. B.N. ADAKAR (India): Mr. Chairman, many of the difficulties which we had seem to have been removed by the understanding which was reached at the last meeting of the Committee that a Member could postpone its signature to the Agreement until the 10th November. Since that gives us sufficient time to study the Agreement as a whole, we shall not need, I hope, any more time for dealing with provisional application to the Agreement. We would therefore be quite prepared, if we signed the Agreement on or before the 10th November, to give provisional application to the Agreement very soon after the simultaneous publication of the Agreement. We shall have no objection to the Agreement being published, both in regard to its general provisions and the Schedules attached to the Agreement. It is, of course, understood that although the 1st January is proposed as the date by which key countries should give provisional application to their Schedules and the General Provisions, there would be nothing to prevent any country, wishing to give provisional

application earlier, from doing so. We expect that we would be able to give provisional application to the General Agreement very shortly after its text is published, because, under the circumstances of our country, it would not be desirable to let a long period elapse after the text is announced.

CHAIRMAN: The Delegate of the Netherlands.

DR. A.B. SPEEKENBRINK (Netherlands): Mr. Chairman, the timetable as proposed by Dr. Coombs presents to the Netherlands no special difficulties, so that we could accept it provided that the key date here is the 30th September, being the Final Act of the General Agreement and also of the Tariff Schedules, but if that date were to be moved to a later date, then we must study this question further.

CHAIRMAN: I might say, that all this discussion is based on the assumption that the Tariff negotiations will be completed on or about that date.

The Delegate of the Lebanon.

MR. M. MOBARAK (Lebanon) (Interpretation): Mr. Chairman, we are not in disagreement about the date, but have a substantive question. I do not understand the words "provisional application of the General Agreement". I do not see how a General Agreement can be applied provisionally. As I said before, this would require a law in our country and after the law is passed the application is final and cannot in any way be provisional. I wonder how this can be possible in any other country - apparently the position is not the same everywhere although the Delegate for Czechoslovakia and the Delegate for Belgium have said that their position was the same as ours.

I would like to know what happens in those countries which, as we do, need a law to implement the General Agreement, and as I said before, we will not be able to do this until March or April and I would like to know what our position would be before that date?

CHAIRMAN: The Delegate for the United States.

MR. J.M. LEDDY (United States): Mr. Chairman, I was just going to say that the general time-table proposed by the Delegate of Australia is, I believe, acceptable to us.

I did want to go back to a point which the Delegate for the Lebanon has now touched upon. I think the position would be that it would be open to any country to sign the General Agreement here in Geneva before departure, and unless it were provided specifically in the Agreement that by its signature a country would be committed to giving provisional application, it would not be committed to do so. In other words, the signature would not bind it to anything and it would only be after the country had obtained parliamentary or other necessary approval at home and accepted the Agreement that it would have to give effect to it. I think that really takes care of the question of the Delegate of the Lebanon, because unless Lebanon is listed among the key countries it should have no difficulties with this proposal for provisional application by particular countries.

CHAIRMAN: The Delegate for South Africa.

DR. J.E. HOLLOWAY (South Africa): Mr. Chairman, may I suggest that, in Dr. Coombs' time-table, provision be made for the countries which are not key countries to have a period - I would say right up to a week after the beginning of the Havana Conference -

to sign. As the United States Delegate has just pointed out, as far as they are concerned, the only action which really has any binding force is that in relation to parliaments, so the actual date of signature is a matter of convenience - certainly as far as we are concerned, it would be far more convenient not to have to hang around, and to sign on the dotted line.

DR. H.C. COOMBS (Australia): Mr. Chairman, it seems to me that provision is made for countries other than key countries. If they are of the kind that are able to give provisional application to the Agreement, and wish to do so, they can do it at any time, it seems to me, up till April or June, or up to the time of Item 6 of the present Schedule. Similarly, as I understand the position is in the Lebanon, if they have not the power to bring an Agreement into force provisionally, then it seems to me that they just by-pass the provisional application of the Agreement; they sign when it is convenient for them to sign, and they bring the Agreement into force definitively when other countries bring it into force definitively - in June, or whatever it is, of the next year. In the meantime, they will have put the relevant law before their parliament and obtained parliamentary approval, if that is the procedure which they follow, but unless they happen to be a key country, it seems to me that their position is quite clear - they are not required to put the Agreement into force provisionally at all; they decide whether they are going to put it into force definitively and take the necessary action, and it becomes operative the next year, when other countries have reached the same stage.

CHAIRMAN: The Delegate for the United States.

MR. J.M. LEEDY (United States): Mr. Chairman, I would like to make a very tentative proposal which I think may help our thinking on this problem and enable us to separate clearly, in our minds, the definitive coming into force of the agreement and the provisional.

I suggest that we might remove from the provisions of the Trade Agreement the existing text relating to provisional application, and have instead a protocol. This protocol would be open to signature by any Member country which wished to sign up to, say, November 15th, and will enter into force on January 1st, in all key countries.

The Agreement itself would be open to signature at any time beginning September 30th here in Geneva for, say, a period of two or three months, and would enter into force when certain countries accounting for a certain proportion of trade had actually accepted it, in other words, had taken all the necessary steps to obtain the necessary parliamentary ratification. I think in that way we may be able to avoid some of the difficulties which, I believe, have resulted largely from a mis-understanding of the proposal now before the Committee.

I might add an explanatory word there that the signature of the protocol would commit the signing countries to give provisional effect on an agreed date if the key countries would sign. The signature of the Agreement would not commit any country to any thing.

CHAIRMAN: The Delegate of Belgium.

M. PIERRE FORTHOMME (Belgium): Mr. Chairman, I would like to clarify a bit the position of Belgium with regard to the provisional application of this Agreement because it might simplify thinking too. It is exact and true that by executive action we can only put into force provisionally the Tariff Schedules until such time as they have been approved by Parliament; but that does not mean that it is impossible for us to put the Agreement into force provisionally, either according to Article XXXII or according to a Protocol as has just been proposed, because it is well within the faculties of the Government to ask Parliament for authority to apply Parts I and III and Part II to the extent of executive power from Parliament, reserving for later on the question of having Parliament examine the definite approval of the Agreement.

CHAIRMAN: The Delegate of Australia.

Dr. H.C.COOMBS (Australia): Mr. Chairman, without wishing to comment on the suggestion of the United States Delegate that the provisional operation of the Agreement could best be provided for by a Protocol separate from the main Agreement, I want to make it clear that, so far as the Australian Delegation is concerned, we would not wish to sign the Agreement at Geneva, whatever may be the opinion of the United States Delegate as to what such a signature does or does not mean. I understood that we had agreed at our last meeting that what we would sign here would be a Final Act which would authenticate a text and that is as far as we would wish to go.

Once you sign an Agreement, there may be different interpretations and opinions about what such an Agreement means or what it commits you to. But if you sign a Final Act which is properly worded, then what you are signing is clear and precise. It can be specified in words that the purport of that signature is to authenticate an attached text. So I see no advantage to be gained by deviating from that procedure which I understand we had agreed upon.

As to the other suggestion, which I understand is that we might separate out from the Agreement itself, the provisions for Provisional Application and incorporate them in a separate document, whether it is called a Protocol or not, I think that might be done quite easily and might have certain merits.

CHAIRMAN: The Delegate of the United States.

Mr. J.M.LEDDY (United States): Mr. Chairman, I would just like to reply to the statement made by the Delegate of Australia. If the Delegate of Australia got the impression that I was in any way suggesting that Australia might sign an Agreement or a Protocol here in Geneva, I was not suggesting that at all. I was simply trying to outline the reasons for the separation of the Protocol and the Agreement in the light of the views expressed by countries other than Australia in this discussion. On the other hand it had always been my clear understanding that the Agreement would be drawn in such a way that countries other than Australia if they so wished could sign the Agreement here in Geneva.

Mr. R.J.SHACKLE (United Kingdom): I think the procedure suggested by Dr. Coombs would entirely meet the views of my

Delegation, that is to say, the signature of a Final Act here, with a separate Protocol for Provisional Enforcement to follow after. That seems to us would be a clearer, neater method of provisional enforcement.

As to the suggestion Mr. Leddy has just made, I cannot see that there will be anything to stop a Delegation which wishes to sign the Agreement itself from doing so up to the date of 10th or 15th November, whatever it is which we have set down. I imagine they could sign the Final Act and at the same time, if they like, sign the General Agreement. But there would be no obligation on anybody, as Mr. Leddy has suggested, to do more than sign the Final Act. I think we could all be satisfied in that way.

CHAIRMAN: The Delegate of the Lebanon.

Mr. MOUSSA MOBARAK (Lebanon) (Interpretation): Mr. Chairman, I would like to know what exactly is meant by the signing of the Final Act. Is there any difference between this and a signature ad referendum? If Australia and the United Kingdom are prepared to sign only the Final Act, I would like to know what is the position of other Delegations in that respect.

CHAIRMAN: I think, as Dr. Coombs explained when making his proposal at the last meeting for a Final Act, it would be an Act simply to establish the authenticity of the text and nothing more.

Mr. MOUSSA MOBARAK (Lebanon) (Interpretation): Mr. Chairman, therefore, if I understand rightly, this would be a draft that each of us would take home to our Governments, and after our Governments had notified the interested parties that they were

in a position to accept it, then the signature would take place. And now I would like to know where it would take place and how.

CHAIRMAN: I think the understanding of the Lebanese Delegate is correct. As to the place of signature, that is a matter for subsequent discussion and decision. No doubt it will be the seat of the United Nations - or some other place to be agreed upon.

The Delegate of the United States.

Mr. J.M.LEDDY (United States): I think what the Delegate of Lebanon said was that a country would sign the Agreement after it had notified the Secretary-General that it was in a position to accept it. I think the procedure would be exactly the reverse; signature precedes acceptance.

CHAIRMAN: I think we are coming to a substantial measure of agreement on the Tentative Time-table, that is that there should be a Final Act signed in Geneva on or about September 30 which all Delegates would sign and which would establish the authenticity of the text. The Agreement would be open for signature from that date up to another date which I think the United States Delegate has suggested now should be two months from September 30. Then there would be a Protocol providing for Provisional Application and it is only in respect of the Protocol that the key countries and non-key countries diverge. The Protocol would be open for signature after some date, from, say, 14th November. Is that correct?

The Delegate of Australia.

Dr. H.C. COOMBS (Australia): Mr. Chairman, I do not see the necessity for the fixing of a date for the signature of the

Agreement apart from the Protocol or whatever embodies the Provisional Acceptance or promise to accept this Agreement provisionally two months after the 30th September. As I understand these things, signature carries some implications. We sign the Final Act as an indication that we accept the text attached. We sign before the 15th November as an undertaking that we will, subject to a sufficient number of other countries doing the same, provisionally apply the General Agreement on the 1st January. When we come to sign the General Agreement itself, apart from anything which embodies its provisional application, I would understand that signature to be an undertaking, subject to confirmation by our Parliaments, to apply the General Agreement definitively, and, so far as we are concerned, we would not be in a position to give that undertaking to apply the General Agreement definitively until after the World Conference, and therefore we would not wish to sign until after the World Conference.

When the World Conference is over, our Government will be in a position to say "We will or we will not apply this, subject to the confirmation of our Parliament", and until we get to that stage I think, as far as I can see, nothing is gained by making any provision for the signature of the General Agreement, apart from whatever signature is necessary to indicate the willingness of the key countries, whatever they may be, to apply the Agreement provisionally.

So that if it is desired to put into this Schedule a date for signature of the Agreement as apart from the Protocol for Provisional Application, we would wish that date to be after the termination of the World Trade Conference, preferably a month later.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J.SHACKLE (United Kingdom): Mr. Chairman, it is a very small remark: I do not differ from anything Dr. Coombs has said but it does seem to me that, as far as definitive application is concerned, signature is a stage which hardly matters. One could almost dispense with signature in the way of definitive application and simply accept.

Dr. COOMBS (Australia): I quite agree: that is why I was perfectly happy when no provision was made for that in the original schedule.

CHAIRMAN: Any other comments.

Mr. R.J.SHACKLE (United Kingdom): Mr. Chairman, there is one tiny thing: I don't know if it is really worth going into - only a point of mechanism arising out of what Dr. Coombs said about the difficulty of specifying the names of countries for provisional-acceptance. That might give rise to a small problem but it could easily be solved in some way such as this: that there could easily be an understanding as to which were the key countries: the representatives of key countries at New York could all meet at a certain rendezvous at a certain time, they could count up to make sure they were all there, they could produce notes to give their different authorizations, all take out their fountain pens, and sign.

Dr. H.C. COCMBS (Australia): Mr. Chairman, I do not see that there is any difficulty about the point that I have raised, namely, the inclusion of the Governments concerned if the text of the Agreement were published at the same time as the Tariff Schedules, but it does arise if ^{is a} they desire to publish the General Articles to the Agreement some months before the Tariff Schedules themselves come into force, but if they are to be published together, I see no difficulty at all about the inclusion of the names of the countries concerned.

Dr. H.E. Z. AUGENTHALER (Czechoslovakia): I see that we are turning around the same difficulty the whole time so I would like to make a suggestion, and I shall make this proposal to all delegations present. I think it would be a pity after four months of negotiations here to lose our time and the money of our Governments and in the end be still uncertain as to what will happen, so we propose to all the delegations with whom we have negotiated the tariff reductions to put them into force in a way in which those countries find best in their constitutional practice, - if they prefer bi-lateral agreements, or as an annex to the existing commercial treaties, or any way they find possible, because I think the aim of our negotiations was tariff reductions. If we do so we shall act exactly in the terms of our recommendations and the resolutions that we have taken. Those tariff reductions could be incorporated later or immediately according to the wishes of the particular countries. In this Tariff Agreement, and any country would be free to accede or not to accede to the Tariff Agreement independently of those tariff reductions.

M. P. FORTHOMME (Belgium): Mr. Chairman, I would like some explanation of the statement that the putting into force of this

Agreement does not mean acceptance of the Agreement, at least by the Governments which are putting the Agreement into force provisionally. It seems to me that putting ^{an Agreement} into force provisionally is accepting it subject to two conditions: one, that Parliamentary approval is obtained later on; two, that the conditions of agreement should not be changed by the Charter which comes later on. Except for that it seems to me that once you decide to apply provisionally, you accept the provisions as far as the Government is concerned.

Mr. R. J. SHACKLE (United Kingdom): Mr. Chairman, I think my understanding of the position as regards provisional enforcement is entirely the same as Mr. Forthomme's. There is, of course, a difference: we have written into the draft of the General Agreement that countries that have merely enforced provisionally could withdraw on 60 days notice. If, of course, we had a separate Protocol, I presume that provision would be transferred to the Protocol, apart from that my understanding is exactly the same as his.

Mr. P. FORTHOMME (Belgium): Mr. Chairman, I understood that this provision of withdrawal within 60 days was principally put in in order to be able to cope with Parliamentary refusal of the Agreement, or a change of circumstances, such as the previous acceptance of the Government which would have to be withdrawn, because, as I said, the basic conditions in which the concessions were given, had been changed; but I agree with the delegate for the United Kingdom that provisional putting into force is acceptance by the Government. I think that there should be signature of the Agreement because, in my understanding of the signature of the Agreement, it is an engagement by the governments to present this to a legislative authority and to get the final approval and ratification. Therefore I think that there should be a signature of the Agreement. Otherwise we would be putting

into force provisionally something for which we would not even have the engagement of our Governments to present it to their Parliaments.

Mr. R.J. SHACKLE (United Kingdom): would there be any difficulty about writing in the Final Act that the delegates will recommend the document to the attention of their Parliaments?

CHAIRMAN: I am afraid that if we reopen that question we might just as well sign. . . I think the purpose in fact is just to establish the text.

Mr. J.M. LEDDY (United States): I wonder whether it would not meet the point of the Belgian delegate, as well as Dr. Coombs's, simply to approve the date of the signature of the agreement after the World Conference?

Mr. R.L. FRESQUET (Cuba): Mr. Chairman, there are so many interesting points in the speeches that the delegates are making here, and we are enjoying them so much that we do not want to miss a word from them; so I wonder if the delegates would be kind enough to speak a little bit louder.

CHAIRMAN: I think that applies to Mr. Leddy's last point.

Mr. J.M. LEDDY (United States): I suggested that Mr. Fort-homme's proposition might be met and also Dr. Coombs's by putting the closing date for signature of the General Agreement after the World Conference. . . I do not think it would even make a difference if it were six months after.

Mr. B.N. ADAKAR (India): Mr. Chairman, may we know, as a matter of clarification, whether^{if} the signature of the agreement is

allowed to be deferred until after the end of the World Conference, it would be practicable to publish the text of the Agreement along with the schedules? Is it intended that the Agreement should be published along the schedules only after the key countries have signed it without waiting for a large number of other countries to indicate their decision as to whether they are going to sign or not?

Dr. J.E. HOLLOWAY (South Africa): Mr. Chairman, when we discussed this matter last week, I suggested that either the Tariff Negotiations Working Party or a special ad hoc Committee should draft the necessary instrument putting in dates and putting in percentages which can be changed by the meeting if necessary. Well, we have spent some hours ^{on} this and I think that if an outsider examined the verbatim reports of the two meetings he would be doubtful if we had thrown any light on the subject. We are merely arguing around getting nowhere because we have not got anything definite. If we had a definite text of the final Act and a definite text of the Protocol with definite dates in it, then we could say whether those dates suit us and whether those percentages suit us, and could therefore make progress. It seems to me we are going round a mulberry bush now.

CHAIRMAN: There is a lot of substance in what the South African delegate has said, but I should like to point out that the Tariff Negotiations Working Party has spent several months endeavouring to draft the General Agreement, and it is now before us subject to discussion. Before we can take upon ourselves the task of drafting, we must get clear ^{the} expression of views from all the members of this Committee that this subject of the General

Agreement is of interest to all members of the Committee, and that is the reason for which we have been having this general discussion on the 7 points covered by this Paper. I think the discussion of to-day has served a useful purpose. It has brought about some ideas which have not been present in our minds before. I think we have at least a general agreement that there should be a Final Act, and that those signing the Act agree that this General Agreement which has been drawn up in Geneva is accepted. We have also agreed that ^{provisional application of} the General Agreement here should be separated from the General Agreement and put into a Protocol. That Protocol should name countries that are necessary in order to give provisional application. The Protocol should be open to signature up to some date, say, November 14th. The question upon which we have a difference of opinion is whether or not there should be provision for a final date of signature of the Agreement. The United States delegate has made a proposal that this could be any time from the date of signing the Final Act up to one month after the World Conference. I have not heard any objection to that proposal, so I take it that that is agreed. The only point on which we have some sort of difference of opinion is the simultaneous public announcement. A suggestion has been made that there might be a public announcement of the terms of the General Agreement apart from the Tariff Schedules, but I do not find any strong measure of support for the separation of the publication of the General Provisions from the Tariff Schedules. ~~XXXX~~
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The whole purpose of the General Agreement is to give effect to Tariff Schedules, and therefore the document would not be complete without the Tariff Schedules. I think there is agreement here that there has to be publication before there can be provisional application, and that that publication should take place shortly after - Dr. Coombs has suggested a week - the date of the signature of the Protocol.

I think we can leave this question now, which is item 3 on our Agenda, and we can consider that we have dealt with item 4, Provisional Application of the Agreement. There is a pretty complete statement on the position of twelve Delegations given on pages 7 and 8 of our Working Paper. Other Delegations, notably India, Lebanon, Chile and China, have indicated their position today, and I think the Brazilian Delegation has referred to its position at the last meeting.

I would, therefore, suggest that we pass on to the next item of our Agenda, and that we leave over, for the time being, Dr. Holloway's suggestion that we set up a Drafting Committee. The drafting of the Final Act should not take very long: it could be drafted, I think, by a sub-Committee or by the Tariff Negotiations Working Party in the course of one or two meetings, and as for the Protocol bringing in the provisional application, that would no doubt follow very much along the lines of the Article LXXII; so I would suggest that we conclude this general discussion under these heads before we consider what steps we should take as to submitting further drafts for the consideration of the Committee. If that is agreed, I would like to suggest we take Item 5 on our Agenda.

M. Pierre FORTHOMME (Belgium): Mr. Chairman, I would like to ask whether it would be possible for me to come back later

on to this question, as to whether the General Agreement should be signed before putting it into force provisionally or not?

CHAIRMAN: Certainly.

Mr. J.P.D. JOHNSON (New Zealand): Mr. Chairman, as will be noted from paragraph 4(b)(ii), New Zealand is one of those countries that is unable to apply the Agreement even provisionally until ratified by Parliament. It appears probable that if publication is not going to take place until 17th - 20th November, Parliament may not be sitting at that time, and we would be unable to give effect to the Agreement till possibly three or four months later.

I would just like to be clear whether the provision it is proposed to make for signature of the Protocol for provisional application would require signature by a country like New Zealand. It would seem that when we are in a position to apply the Agreement we could sign it finally.

CHAIRMAN: I think the question raised by the Delegate of New Zealand is related to the question as to what countries would or would^{not} be considered "key" countries for the purpose of provisional application. I think that that is a question we can refer and pick up later. It is difficult for me to give a reply to the Delegate of New Zealand.

Mr. J. MELANDER (Norway): Mr. Chairman, we are in almost exactly the same position as New Zealand as regards the provisional application of the Agreement. Neither the Tariff part nor the Charter part can be put into force, even provisionally, until accepted by Parliament. We feel that to have one month

after the end of the Havana Conference, as the final date within which to sign and put provisionally into force the Charter and the General Agreement as a whole, would perhaps be too short notice. We would prefer two months.

CHAIRMAN: There being no further comments, I suggest that we now take up Item 5, which is Inclusion in the Agreement of the Articles of the Charter which are reproduced in Part II. Members of the Committee will find on page 9 of Document W/301 that the Delegations of the United States, Netherlands and Belgium stated that they consider Part II to be an essential part of the General Agreement. The Norwegian Delegation proposed that Part II be deleted.. The Australian Delegation proposes in document W/277 that Article XXII (equivalent to Article 38 in the Charter) be transferred from Part III to Part II.

The Secretariat pointed out that the decision on whether Part II should remain in the General Agreement is closely related to Item No.6, which deals with the effect of the Charter on the Agreement upon the entry into force of the Charter.

I think it would be useful if we could now have a general discussion on Item 5. No doubt Delegates will feel it necessary to also touch upon Item 6 when discussing the questions raised on Item 5.

H.E. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, we share the opinion of those Delegations which thought that the second Part should be entirely deleted. As it should enter into force only about April or June 1948, that is, after the Havana Conference, we see no necessity for having Part II in the Tariff Agreement.

CHAIRMAN: Does any Member of the Committee wish to speak on that point?

Dr. H.C. COOMBS (Australia): Mr. Chairman, we have given a good deal of thought to this question. It has always been our view that the logical way of approaching this question of tariff negotiations would have been for it to have succeeded the acceptance of the Charter. We recognize that that has not been practicable, and indeed, for some reasons, it was not even desirable: there were certain advantages to be gained from tackling the problem of the Tariffs simultaneously with the working out of the Charter itself. But we have got to recognize that that does carry certain difficulties with it: that we are, so to speak, operating part of the contemplated Charter before we have actually got a Charter to work on.

We have accepted the position that the conclusion of an Agreement in which tariff concessions are exchanged can precede the conclusion of the discussions and agreement about the content of the Charter itself. We are prepared to wait until after the World Conference to know what the content of the Charter is going to be. We are prepared for the tariff reductions negotiated to be operated while those discussions are going on, both as evidence of the real results being produced from this process of negotiation, and as evidence of our determination to operate not merely a Charter but a General Agreement covering tariffs. But we cannot see why it is necessary for us to anticipate the results of the World Conference by the incorporation in the Agreement on a provisional basis, subject to existing legislation and other provisos, things which look like a substantial part of the Charter.

It seems to us that there is real danger - in fact, there are several dangers - in such a procedure. First of all, as has already been pointed out, whatever reservations we may make about the nature of our acceptance of those clauses, there is no doubt that the fact that we had agreed to them in the General Agreement and had attached our signatures to them and were operating them provisionally, would be regarded as evidence that they were acceptable to us in the Charter itself, and to some extent, therefore, our freedom of action would, in fact, be limited: at least, there would be a tendency for it to be limited in fact, however clear of obligations we were in theory.

Another difficulty is that there would be danger of misunderstanding by other countries that we were in effect deciding upon a significant part of the Charter in advance.

The thing that worries me most of all is the implication which is carried by the inclusion of those Articles in the General Agreement that it is not necessary to have a Charter. We have pointed out all the way through that the obligations in various parts of the Charter are inter-dependent, and that our capacity to accept the obligations in Chapter V is dependent upon the acceptance of obligations in other parts of the Charter, particularly in the Chapters dealing with Industrial Development, Employment and stability for Primary Production. Those are the necessary requisites of acceptance of these obligations. Once we have accepted those obligations, however, in a General Agreement, there does appear to be a danger that the urge to complete a Charter will be very much reduced, and, quite frankly, we feel concerned at the pressure to include these things in the General Agreement as, so to speak, evidence of the desire to insure themselves on the part of certain other countries.

Furthermore, if you assume, as I think it may be necessary to assume, that there will be some countries in which Chapter V will, so to speak, be popular and other parts of the Charter unpopular, then the acceptance of the General Agreement with Chapter V in its present form gives those countries a definite incentive to reject the Charter, because they have got a General Agreement with all the things in it which they like, and why should they then accept a Charter which has in addition to those things a lot of things that they do not like?

We think we can get an objective consideration of the Charter as a whole only if we come to the consideration of it as a whole and without prior commitments about any of its parts, so that from that point of view it seems to us preferable, from an honest and objective consideration of what the Charter ought to be, to think of it without prior commitments in the form of an Agreement which incorporates only part of it.

It has been suggested that certain parts of this Charter must be incorporated in the Agreement in order to protect the tariff concessions negotiated. I have thought that over with very great care, because that would appear to me to be a legitimate reason for including General Articles in the Agreement. If it were necessary, in the short time during which this Agreement will operate provisionally, to incorporate specific Articles for the protection of those concessions, we would be prepared to agree that they should go in, but two things stick in our minds - the first is that the period is short, and the second is that the countries know that a Charter embodying provisions of this kind are going to be on the map next year.

We came to these tariff negotiations after a period of many months, during which it was perfectly well known that tariff

negotiations were going to be conducted in Geneva, and it was provisionally and without commitments of this sort agreed in London that it would be undesirable for countries to alter their tariffs, or in other ways to change their attitudes, in order to strengthen their bargaining position. Now, on the whole, with certain exceptions, we believe that that was honestly observed by the countries concerned. We did trust one another to come to these negotiations after a delay of six or nine months without having done anything in the meantime to strengthen our bargaining position for these negotiations.

Now here what we are asking one another to do is to promise, for a period of a few months, during which we work out the details of an agreement or agreements about commercial policy, as well as other matters which we incorporate in the Charter, not to chisel away the concessions which we have granted to other people by devious means. Mr. Chairman, I do not believe it is necessary to have anything in this Agreement beyond, first of all, an undertaking to grant to the countries concerned the concessions embodied in the Schedules; secondly, an undertaking not to nullify or impair those concessions by indirect means; thirdly, an undertaking to listen to a complaint and consult if any other contracting country thinks that you have nullified or impaired a concession. Now, if we have an Agreement of that sort, we have operating from the outset tariff reduction which it is our prime purpose to achieve here.

Without undertaking commitments before the broad discussions which will take place at the World Conference, we do not appear to be trying to push other countries into accepting something which we have not had time to have a look at. Furthermore, we are not called upon to accept a part of the Charter without having all particulars

in front of us.

It is going to be exceedingly difficult for delegations to convince their Governments that one particular part of the Charter, taken by itself, is a satisfactory deal for them. The different parts of the Charter have a different appearance to different countries. Some of us will be bound to put emphasis on the advantages which we are expected to derive from the employment provisions or industrial development provisions, others will need to put the emphasis on the negative advantages, on the discipline which countries are proposing to accept in relation to their commercial policy, but those are parts of the Charter, and if we take part of it out now then it is likely to be difficult to get acceptance for it. Furthermore, it will make the rest of the Charter, when it comes into force after final acceptance next year, an unbalanced document because either what is good or what is bad from your point of view will have been taken out and incorporated in the General Agreement.

Now, Mr. Chairman, we, as I say, have given this a great deal of thought and we still feel absolutely unconvinced of the necessity for the incorporation of Part II. Our approach to the General Agreement should be this: that we all agree that we should include the Tariff Schedules. What else it ought to include I believe is up to those people who want to include it, that is, we start with the tariffs and the Tariff Schedules, and if anybody wants anything else put in, I believe the onus of proof as to the necessity for its incorporation lies in the country which wants it - and all I can say is that we are, from a point of honour, prepared to be convinced, but I do not think it is going to be easy.

CHAIRMAN: Dr. Holloway.

Dr. J.E. HOLLOWAY (South Africa): Mr. Chairman, on this subject of the inclusion of Part II in the Agreement, there seem to be at least four different lines of thought. The first is that Part II substantially as drafted, with possible minor modifications, is an essential part of the General Agreement; the second is that no part of the text of the General Agreement should be included until after Havana; the third is that the portions of the text now proposed should be agreed, but after Havana, any changes made there should automatically replace the present text; the fourth is that we should include and lay down certain rules for the replacement of Havana amendments.

Now, before going into details on any of these suggestions it seems to me that, except for the point that Dr. Coombs has just made and assuming that that point is not upheld, there may be a possibility of solving this problem without going into any of these alternatives. Dr. Coombs has, if I understood him correctly, just appealed to everybody not to make what looks like a miniature Charter. Of course, if that view prevails and we have only the Tariff Schedules, then all other points fall away anyway. It does not seem to me likely that it will prevail, that is why I go on to a second point.

The difficulties which have been foreseen here by various Delegations may be difficulties which may be fairly easily side-stepped, on the lines that Dr. Augenthaler has just indicated. If we can divide up the subject into two parts - I do not know what the point has been sufficiently clearly brought out that the Agreement for provisional application is an entirely separate thing, with entirely separate Members. It has got some of the same material, but it is of no concern, subject to Dr. Coombs' point, to

other Members. At present, we have the names of six countries listed which indicate that they can enter into a provisional Agreement. Those countries are entirely in their right to enter into an Agreement if they see fit and if they can agree on terms, and if those countries foresee no difficulties in accepting certain texts now put into their Agreement, which is the provisional Agreement. If all of them can come together on that point, then it seems to me that we can leave it to those countries to say what they are going to put into the General Agreement, in this treaty which is a treaty between those six countries.

Then we come to the point that Dr. Lugethaler has made, it seems to me that the Agreement which one would hope is an Agreement between seventeen countries, is an Agreement which is not going to be made in any case until after Havana, because there are too many of us whose constitutional machinery is such that we cannot get the stuff through before several months after Havana.

Now, why not face the fact then, if it is the case, as I think it is the case, that a sufficiently large number of countries will not be able to implement the General Agreement to make it acceptable, that you will not get the 85% or whatever percentage is necessary, that you might as well put off the drafting of what you are going to put into the General Agreement until after Havana. That leaves the problem of any difficulties arising from putting in a text now to the six countries which are now constitutionally in a position to enter into that Agreement. The issue is narrowed down to those countries, and it seems to me those countries ought first of all to examine whether they can enter into an Agreement of that kind and, if they can enter into an Agreement of that kind, then we can perfectly safely leave that question to them, and leave the text of the General Agreement, as far as the seventeen others and any others that may come in in the meantime are concerned, until after the Havana Conference.

I suggest that, Mr. Chairman, as a way of sorting out the problem. It may not work. It may be that even among the six countries there are one or two that cannot do it; but three of the six have already indicated that they want this Part II put into the Agreement; if the remaining three also say they want it put into the Agreement, then it is a matter for them to fix that up, and we can follow in good time.

CHAIRMAN: The Delegate of Norway.

Mr. J. MELANDER (Norway): Mr. Chairman, as Delegates will have observed from our paper, we are of the opinion that Part II of this draft ought not to be part of this Agreement; in other words, the Agreement ought to be a multilateral tariff agreement only. That, I think, is our starting point.

I do not want to hold up the time, of the members here by

going into all the reasons for this standpoint. I will, at this stage, only say that I agree substantially with what the Delegate of Australia said just now.

What has been said by the Delegate of South Africa is to my mind also interesting. It is the same starting point: that we have agreed now to introduce a Tariff Agreement; those countries which feel they can include additional provisions in such an Agreement are of course fully entitled to do so. I think that is a suggestion which certainly merits consideration.

CHAIRMAN: It is now six o'clock and I propose that we adjourn the discussion now and resume tomorrow at 2.30 p.m.

The Delegate of Czechoslovakia.

H.E. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, may I beg to make a suggestion which may help us in our further work: it would be if the Executive Secretary might send to all Delegations a kind of questionnaire and ask them to answer certain precise questions. I would suggest the following questions: that each Delegation should answer if its Delegation is ready to accept the provisions of Part II; then, if this Delegation can sign the Tariff Agreement already here, or in which form; then, if not, if the Delegation can put the Tariff reductions into force and, if the Delegation is ready to put the Tariff reductions into force, in which form.

CHAIRMAN: With regard to the suggestion of the Czechoslovakian Delegate, I have to point out that, in regard to his first point as to whether or not the Delegations are ready to accept Part II, that is the purpose of the discussion which we are having now: we have come to that item on our Agenda.

With regard to the other points which he has set forth in his proposed questionnaire, I think they have already been covered. We have circulated Delegations and we have obtained pretty complete

answers covering those points. Certain of that information is given in the paper which we have before us. So I do not think we would really be fulfilling a very useful purpose in sending out a further questionnaire, but if it is the wish of the Committee that we should adopt that suggestion, I am sure we should be very glad to do so.

I should like to know if any other members of the Committee support the suggestion of the Czechoslovakian Delegate.
Dr. Speekenbrink,

Dr. A. B. SPEEKENBRINK (Netherlands): Mr. Chairman, I have a different suggestion to make. I think we might say that a number of countries who are, let me say, key countries, and are also members of the Tariff Negotiations Working Party, have made a draft and put that before this Committee. Now, on the other side, we have Dr. Coombs, who has given much thought to this problem and who has been supported by a few other Delegates about a different approach to this problem.

So it might be useful if we could get an alternative draft by the hand of Dr. Coombs, assisted maybe by a few other countries, just giving us his idea of the General Agreement together with the Protocol that should be attached to it, also in the light of the discussions of today and the proposals he made earlier in regard to the time-schedule.

Then we should have two different lines of approach, and I think that might be useful for our further discussions and serve our purpose much better than a new questionnaire.

CHAIRMAN: I would like to make an alternative suggestion which I think might meet the point of view of both the Czechoslovak Delegate and the Netherlands Delegate, and would not involve us in being perhaps side-tracked in further documents: -

Let us first of all finish this general discussion. We will then ask the Secretariat to prepare a document summarising the points which have been brought out in this general discussion. After we have considered that, we can then decide what further steps we should take with a view to furthering the work of getting agreement on a text for the General Agreement.

Is that agreed?

M. PIERRE BARADUC (France) (Interpretation): Mr. Chairman, I am rather afraid that a general discussion will get us nowhere.

Mr. R. J. SHACKLE (United Kingdom): Mr. Chairman, I would like to support your proposal in that we really do need to hear the views of various Delegations before we can do any useful paper work.

Mr. Winthrop BROWN (U.S.A.): I agree.

CHAIRMAN: Any objections?

The Delegate of the Lebanon.

Mr. Moussa MOBARAK (Lebanon) (Interpretation): Mr. Chairman, I have a suggestion to make which might expedite our work. I think the difference at present is between those who are in favour of the Agreement as it stands and those who are in favour of deleting Part II. I think it would be necessary to consult the Committee to know what is the sense of the majority, and then we could revert to the suggestion made by the Delegate of Czechoslovakia, supported, I believe, by the Delegate of Belgium, for simply signing a Protocol which would not be binding; and, instead of devoting one or two further sessions to a general discussion, which, as the French Delegate said, would prove fruitless, you might simply ask ^{for} those in favour of retaining Part II and those against it.

CHAIRMAN: The Delegate of Belgium.

M. Pierre FORTHOMME (Belgium): Mr. Chairman, after four months of Geneva I feel like a sleep-walker, but I feel certain that I did not support anything today, nor last time.

CHAIRMAN: I think it is necessary that we should permit the general discussion to continue. Three Delegations have already expressed their point of view on the subject of whether or not Part II should be included, and I do not think it would be fair to the other Delegates if we did not give them the same opportunity.

Therefore I propose that we continue this discussion tomorrow at 2.30 and, after having had general discussion, we can come to a decision.

The Meeting is adjourned.

(The Meeting rose, 6.10 p.m.)